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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,852

12/29/2004

Daisuke Takeda

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7012

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7590

11/26/2007

AKERMAN SENTERFITT

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EXAMINER

HOEY, ALISSA L

ART UNIT

PAPER NUMBER

3765

MAIL DATE

DELIVERY MODE

11/26/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/519,852

Applicant(s)

TAKEDA ET AL.

Examiner

Alissa L. Hoey

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/29/07 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Frand et al. (US 3,457,739).

In regard to claim I, Frand et al. teaches a sock (12), comprising:

a toe section (end portion near 14, figure 4) for covering toes, said toe section being knitted into a flat tubular shape (figure 2), said toe section including a sole section covering the \_a bottom part of the toes and an instep section covering a top part of the toes, said sole section have a first end at a tip of the toes and a second end root of the toes, a bulge section formed in a middle part in a ~~length-direction~~ of said sole section between said first end and said second end of said toe section, and

wherein said bulge section is formed such that it has an arc shape that protrudes vertically downward when the sock is not worn (figures 1 and 2 see bulge section near 14).

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Getaz (US 2,821,847).

In regard to claim 1, Getaz teaches a sock (18), comprising:

a toe section for covering toes, said toe section being knitted into a fiat tubular shape, said

toe section including a sole section covering the bottom part of the toes and an instep section covering a top part of the toes, said sole section have a first end at a tip of the toes and a second end root of the toes (see figures 1 and 2),

a bulge section (17, 20, 22 and 11) formed in a middle part in a ~~length direction~~ of said sole section between said first end and said second end of said toe section, and wherein said bulge section is formed such that it has an arc shape that protrudes vertically downward when the sock is not worn (see figures 1 and 2).

5. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Bounous et al. (US 3,905,212).

In regard to claim 1, Bounous et al. teaches a sock (11), comprising:

a toe section (14) for covering toes, said toe section being knitted into a fiat tubular shape (figures 1 and 2), said

toe section (14) including a sole section covering the bottom part of the toes and an instep section covering a top part of the toes, said sole section have a first end at a tip

of the toes and a second end root of the toes (see figures 1 and 2),  
a bulge section formed in a middle part in a ~~length direction~~ of said sole section  
between said first end and said second end of said toe section, and  
wherein said bulge section is formed such that it has an arc shape that protrudes  
vertically downward when the sock is not worn (see figures 1 and 2, identifiers 15, 20).

In regard to claim 2, Bounous et al. teaches the sock of claim 1, wherein said bulge section is formed such that it gradually becomes thinner from a side of a large toe toward a side of a little toe (see figure 5, toe portion and bulge section decreases in size).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bounous et al. in view of Craighead (US 1,308,483).

Bounous et al. teaches a sock with buldge as described in claim 1. However, Bounous et al. fails to teach the toe sections having multiple stalls for the user's toes.

In regard to claim 6, Craighead teaches a sock with a toe section is formed such that it is divided into a first insert section into which a large toe is inserted, and a second insert

section

into which other toes are inserted, and bulge sections are formed in both the first Insert section

and second insert section (figures 1 and 2).

In regard to claim 7, Craighead teaches a sock with a toe section is formed such that it

is divided into five insert sections for each individual toes, and bulge sections are formed for each of the five insert sections (figures 1 and 2).

It would have been obvious to have provided the sock with buldge of Bounous et al. with the multiple toe stalls of Craighead, since the sock with buldge of Bounous et al. provided with multiple toe stalls would provide for enveloping of the individual toes to prevent direct contact of the toes, and thereby obviate corns and other troubles incident to perspiration and rubbing action.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and can be found cited on PTO-892 form submitted herewith.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ALH

/Alissa L. Hoey/  
Primary Examiner, Art Unit 3765